

FILED

JUN 25 2019

United States District Court
Eastern District of North Carolina
Western Division

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
DEP CLK

Case No. 5:19-CT-3189

(To be filled out by Clerk's Office only)

CROSBY L. POWELL

Inmate Number 02458-135

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

(Pro Se Prisoner)

-against-

① United States of America, @ FBOF
② Federal Bureau of Prisons, Federal
Medical Center Butler, NC, Duke Regional
Hospital And Dr Isaac O. KARIKARI, MD

Jury Demand?

☐ Yes

☐ No

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section IV. Do not include addresses here.)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

- ☐ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)
- ☒ Action under Federal Tort Claims Act (United States is the proper defendant; must have presented claim in writing to the appropriate Federal agency and received a notice of final denial of the claim pursuant to 28 U.S.C. § 2401(b))

II. PLAINTIFF INFORMATION

CROSBY L. POWELL

Name

02458-135

Prisoner ID #

Federa Medical Center, Butner, N.C.

Place of Detention

P.O. Box 1600

Institutional Address

BUTNER

City

N.C.

State

27509

Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☐ Pretrial detainee ☐ State ☐ Federal
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner

IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1: United States of America
Name U.S. Dept. of Justice

Current Job Title
950 Pennsylvania Avenue
Current Work Address
Washington, DC 20530-0
City State Zip Code

Capacity in which being sued: ☒ Individual ☒ Official ☐ Both

Defendant 2: Federal Bureau of Prison (FBOP)
Name Central Office

Current Job Title
320 1st Street, NW
Current Work Address
Washington DC 20334
City State Zip Code

Capacity in which being sued: ☒ Individual ☒ Official ☐ Both

Defendant(s) Continued

Defendant 3: Federal Medical Center, Butner, N.C.

Name

Current Job Title

P.O. Box 1600

Current Work Address

Butner

N.C.

27509

City

State

Zip Code

Capacity in which being sued: ☐ Individual ☐ Official ☐ Both

Defendant 4: Duke Regional Hospital

Name

DR Isaac O. Karekari

Current Job Title

2301 ERWIN ROAD

Current Work Address

DURHAM,

N.C.

27705

City

State

Zip Code

Capacity in which being sued: ☒ Individual ☒ Official ☒ Both

Defendant 5: DR Isaac O. Karekari, M.D.

2301 ERWIN ROAD

Durham, N.C. 27705

Capacity in which sued: ☒ Individual ☒ Official ☒ Both

V. STATEMENT OF CLAIM

Place(s) of occurrence: 2301 ERWIN Road Durham, N.C. 27705

Date(s) of occurrence: June 2, 2017

State which of your federal constitutional or federal statutory rights have been violated:

Eighth Amendment

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

Who
did what to
you?

Dr. Isaac D. Karikari, M.D., At the request of
U.S.A. Federal Bureau of Prisons and Federal
Medical Center, Butner, N.C. Performed Surgical
Posterolateral Osteotomy Lumbar
Spine Bilateral Operation, Discharging the
plaintiff on June 5, to the BOP Federal
Medical Center Butner, N.C. With major medical
issues with loose screws in the lumbar
spine hardware; plaintiff from surgery had major
nerve damages to his hands, feet, constant

pain that radiates down both legs that left
plaintiff unable to walk and is being
treated with pain medication. The defendant
Refuses to provide me adequate medical care,
the pain is out of control and radiates into
my legs that causes me daily discomfort.

What
happened
to you?

my entire back shut down leaving me
unable to walk two years ago, PT
was tried for several months with no
improvement that was the purpose of the
surgery on June 2, 2017

When did it
happen to
you?

June 2, 2017, stemming from the back
surgery

Where did it
happen to
you?

See attached medical Reports.

What was your injury?

Failure within the cervical and
thoracic spine that required repair to the
lumbar spine which had collapse at L1,
I later started having constant spasms
in my extremities with TOS type phenom-
ena, with numbness in my ~~lower~~ extremities.
All of the above issues arose out of the
surgery the defendants done on June 1,
2017. See BNC records.

VI. ADMINISTRATIVE PROCEDURES

WARNING: Prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions. 42 U.S.C. § 1997e(a). Your case may be dismissed if you have not exhausted your administrative remedies.

Have you filed a grievance concerning the facts relating to this complaint? ☒ Yes ☐ No

If no, explain why not:

See Tort Claim # TRT-NCR-2018-06266
File May 30, 2018, And Received By The
BOP on July 09-2018, And was Denied
December 18, 2018.

Is the grievance process completed?

☒ Yes ☐ No

If no, explain why not:

Grant my \$ 5,000.00 Tort claim and Any
Other relief the court find to be Fair and Just
Under the law.

VII. RELIEF

State briefly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Grant Relief Sought in my petition and other
relief that is Just under the laws of the
Constitution that govern Tort claims for inadequate
medical treatment for Damages Done by the Dr
Fendants on June 2, 2017 from the surgery.

IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint and provide prison identification number and prison address.

June 17, 2019

Dated

Crosby L. Powell

Plaintiff's Signature

CROSBY L. POWELL

Printed Name

02458-135

Prison Identification #

PO Box 7600

Prison Address

Butner

City

N.C. 27509

State

Zip Code